

Exhibit 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

GWACS ARMORY, LLC

Plaintiff,

V.

**KE ARMS, LLC, RUSSELL PHAGAN,
SINISTRAL SHOOTING
TECHNOLOGIES, LLC, BROWNELLS,
INC., and SHAWN NEALON,**

Defendants.

and

KE ARMS, LLC,

Plaintiff,

V.

**GWACS ARMORY, LLC, GWACS
DEFENSE INCORPORATED, JUD
GUDGEL, RUSSEL ANDERSON, DOES I
through X, and ROE CORPORATIONS I
through X,**

Defendants.

Case No.:20-cv-0341-CVE-SH
BASE FILE

Consolidated with:
Case No. 21-CV-0107-CVE-JFJ

DEFENDANTS’/COUNTER-PLAINTIFF’S EXPERT IDENTIFICATION AND REPORTS

In compliance with Federal Rules of Civil Procedure 26(a)(2), 16.1(b)(3), and the May 5, 2021 Scheduling Order (Dkt. 23), on file herein, Defendants, KE Arms, LLC (“KEA”), Russell Phagan (“Phagan”), an individual; Sinistral Shooting Technologies, LLC (“SST”), an Arizona limited liability company; Brownells, Inc., (“Brownell’s”) an Iowa corporation; and Shawn Nealon (“Nealon”), an individual (hereinafter collectively “Defendants”) and Counter-Plaintiff KEA (“Counter-Plaintiff”), by and through their undersigned attorneys of record, hereby identify the following expert witnesses and

disclose the attached expert witness reports in this matter.

I. EXPERT WITNESSES

1. Michael L. Rosten, CPA, CFF, CFE, CVA, MAFF
6100 Elton Avenue, #1000
Las Vegas, NV 89107

Mr. Rosten will serve as the Defendants'/Counter-Plaintiff's expert witness, and is expected to testify regarding his review of the records, his findings and opinions, within a reasonable degree of certainty, regarding the damages, if any, sustained by Plaintiff, the damages sustained by Counter-Plaintiff, and related issues in his report produced herein; and as to any other matter relevant to this action which may be elicited by counsel at deposition, arbitration or trial. Attached hereto is a copy of Mr. Rosten's CV and list of testimonies; a copy of Mr. Rosten's fee schedule; a copy of Mr. Rosten's report; and a copy of documents based on Mr. Rosten's report; and a copy of documents based on information presently available to Mr. Rosten, that Mr. Rosten may use to support his opinions.

2. Richard H. Newman, Esq.
Newman Law, LLC
7435 S. Eastern Avenue, Suite 105-431
Las Vegas, NV 89123

Mr. Newman will serve as the Defendants'/Counter-Plaintiff's expert witness, and is expected to testify regarding his review of the records, his findings and opinions, within a reasonable degree of certainty, regarding intellectual property, including, but not limited to trade dress, unfair competition law, and copyright, and related issues in his report produced herein; and as to any other matter relevant to this action which may be elicited by counsel at deposition, arbitration or trial. Attached hereto is a copy of Mr. Newman's

CV and list of testimonies is enclosed; a copy of Mr. Newman's fee schedule; a copy of Mr. Newman's report; and a copy of documents based on Mr. Newman's report; and a copy of documents based on information presently available to Mr. Newman, that Mr. Newman may use to support his opinions.

II. DOCUMENTS

	Document Description	Bates Nos.
1.	Expert Witness Report of Michael L. Rosten	ROSTEN 000001-40
2.	Expert Witness Report of Richard H. Newman	NEWMAN 000001-134

As Defendants'/Counter-Plaintiff's investigation continues, they may determine that additional documents exist or that documents identified herein are not relevant or central to this matter. Defendants/Counter-Plaintiff therefore reserve their right to modify the list of documents identified herein. Defendants/Counter-Plaintiff reserve the right to amend/supplement this witness list as necessary during the ongoing discovery process as additional records are obtained. The Defendants/Counter-Plaintiff also reserve the right to call and cross examine any expert witness(es) listed by Plaintiffs.

Respectfully submitted,

**HALL, ESTILL, HARDWICK,
GABLE, GOLDEN & NELSON, P.C.**

/s/ Robert P. Fitz-Patrick

Robert P. Fitz-Patrick, OBA #14713
320 South Boston Avenue, Suite 200
Tulsa, OK 74103-3706
Telephone: (918) 594-0400
Facsimile: (918) 594-0505
Email: rfitzpatrick@hallestill.com

ATTORNEYS FOR DEFENDANTS

-AND-

MARQUIS AURBACH COFFING

/s/Alexander K. Calaway

Brian R. Hardy, Esq.
Nevada Bar No. 10068
Admitted Pro Hac Vice
Alexander K. Calaway, Esq.
Nevada Bar No. 15188
Admitted Pro Hac Vice
10001 Park Run Drive
Las Vegas, Nevada 89145

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that I electronically served the foregoing document via electronic mail using a Dropbox link, on the 6th day of October, 2021 to the following individuals:

James E. Weger, Esq.
Todd J.P. Bogan, Esq.
JONES, GOTCHER & BOGAN, P.C.
15 East Fifth St.
Tulsa, OK 74103

ATTORNEYS FOR THE PLAINTIFF,
GWACS ARMORY, LLC AND COUNTERCLAIM DEFENDANTS GWACS ARMOY,
LLC; GWACS DEFENSE, INC. JUD GUDGEL AND RUSSELL ANDERSON

/s/ Cally Hatfield

United States District Court

Northern District of Oklahoma

Case No. 4:20-cv-00341-CVE-CDL

GWACS Armory, LLC, Plaintiff.

vs.

KE Arms, LLC, Russell Phagan, Sinistral Shooting Technologies, LLC,
Brownells, Inc. and Shawn Nealon, Defendants.

-and-

KE Arms, LLC, Counter-Plaintiff,

vs.

GWACS Armory, LLC, GWACS Defense Incorporated, Jud Gudel
and Russel Anderson, Counter-Defendants.

Expert Witness Report of

Michael L. Rosten

October 6, 2021

I. Introduction

The counterclaims of KE Arms, LLC (“KEA”) center on a monolithic polymer receiver for AR-15 type rifle firearms¹ that KEA manufactured, generally known as the KP-15. GWACS Armory, LLC (“GWACS” or the Plaintiff) in this case brought this lawsuit against the Defendants, including KEA, alleging multiple causes of action:

- Breaching terms of a Mutual Nondisclosure Agreement
- Misappropriation of Trade Secrets
- Trademark Infringement
- Trade Dress Infringement
- Copyright Infringement
- Misappropriation of Intellectual Property
- Breach of Implied Covenant of Good Faith and Fair Dealing
- Breach of Contract

In turn, KEA filed counterclaims against GWACS for damages suffered as a result of GWACS making false and disparaging statements about KEA in a Cease-and-Desist letter (“Infringement Communication”), which was shared with one of KEA’s largest customers/distributors, Defendant Brownells, Inc. (“Brownells”) on April 21, 2020 [*Exhibit A*].

We were informed that during the period May - December of 2020, KEA (and Brownells through jointly conducted efforts) curtailed marketing of those products that allegedly infringed on GWACS intellectual property rights (i.e., those KEA parts identified with 61 in the part number; for example, 1-61-01-XXX).

II. Assignment

BDO USA, LLP (“BDO”) was retained by the law firm of Marquis Aurbach Coffing to assume KEA will prevail on its counter claim legal theories in this case and compute the damages to KEA that would not have occurred “but for” the April 21, 2020 email by GWACS that transmitted the Infringement Communication to Brownells.

¹ In firearms terminology, the firearm frame or receiver is the part of a firearm which integrates other components by providing housing for internal action components such as the hammer, bolt or breechblock, firing pin and extractor, and has threaded interfaces for externally attaching (also known as receiving) components such as the barrel, stock, trigger mechanism and iron/optical sights. The receiver is often made of forged, machined, or stamped steel or aluminum; in addition to these traditional materials, modern science and engineering have introduced polymers and sintered metal powders to receiver construction.

III. Applicable Standards

These services were performed in accordance with the *Statement on Standards for Forensic Services* of the American Institute of Certified Public Accountants, the *Fraud Examiners Manual* of the Association of Certified Fraud Examiners and the *Professional Standards-Financial Forensics* of the National Association of Certified Valuators and Analysts. Among other things, each of these sets of standards or associated ethical standards requires that we complete our assignments with integrity and objectivity.

The procedures performed do not constitute either an audit performed in accordance with the AICPA's generally accepted auditing standards, nor an attestation service. Accordingly, I do not express an opinion or any other form of assurance on the financial documents and data provided in connection with this engagement, nor any financial information included as exhibits hereto.

IV. Expert Opinion

In my opinion, KEA has suffered lost revenues of \$637,427, from May to December of 2020. After subtracting avoided costs, estimated lost profits damages were \$387,918 "but for" the actions of GWACS. We have not computed prejudgment interest on those claimed damages, deferring such computations until after the Court makes its final determination.

IV. Work Performed

Along with the BDO engagement team, I considered a variety of information in formulating this expert report, including legal filings and other documents received from counsel and information obtained from our independent research. **[Exhibit B]**

This engagement was conducted in accordance with generally accepted methods for computing economic damages, *but-for* actions of the Counter-Defendants, which for this litigation was sending the Infringement Communication to Brownells, one of the largest customers of KEA.

During various discussions with Russell Phagan, Sales & Marketing Director of KEA, and Mike Kenney, Member & Co-owner of KEA, we were told that various damage categories are believed to exist. For this expert report, I have focused exclusively on those economic damages relevant to Brownells, namely the sales and resulting profits that would have been otherwise realized by KEA from Brownells, *but-for* the actions of GWACS. Moreover, Russell Phagan represented that the KEA products underlying this lawsuit are those with 61 in the part number; for example, 1-61-01-XXX. It was represented to us that the manufacture of products did not commence until October 2020; consequently, those sales in September 2020 and before were actually pre-orders.

Using the purchase orders from Brownells, which were dated from August 27, 2019 to September 16, 2021 (“Brownells PO Period”), a master summary schedule of all relevant “61” products Brownells ordered (aka purchased) was prepared. Those orders represent final product sales by KEA, as it was represented to us that there were no consignment arrangements or other KEA participation in retailing to the ultimate-use customer.

Using the database for relevant “61” products Brownells ordered, separate summaries were prepared for each of those KEA products with sales activity during the Brownells PO Period, which included:

- 1-61-01-001 MK3 STRIPPED LOWER
- 1-61-01-002 MK3 COMPLETE LOWER (MIL-SPEC)
- 1-61-01-003 MK3 COMPLETE LOWER (SLT WITH AMBI SELECTOR AND AMBI MAG CATCH)
- 1-61-01-004 AR-15 MK3 HAMMER PIN
- 1-61-01-005 AR-15 MK3 MILSPEC PARTS KIT
- 1-61-01-006 AR-15 WHAT WOULD STONER DO 2020 RIFLE
- 1-61-01-007 MK3 STRIPPED LOWER FDE
- 1-61-01-008 MK3 COMPLETE LOWER (MIL-SPEC) FDE
- 1-61-01-009 MK3 COMPLETE LOWER (SLT WITH AMBI SELECTOR AND AMBI MAG CATCH) FDE

Using the sales activity summaries for each KEA product, we determined those suitable for applying a commonly accepted economic damages methodology known as the “before-and-after” approach. Based upon the separate purchase order activity schedules, we determined that potential economic damages were isolated to four products:

- 1-61-01-001 MK3 STRIPPED LOWER
- 1-61-01-002 MK3 COMPLETE LOWER (MIL-SPEC)
- 1-61-01-006 AR-15 WHAT WOULD STONER DO 2020 RIFLE
- 1-61-01-007 MK3 STRIPPED LOWER FDE

For these four KEA products, we analyzed monthly sales activity from September 2019 to June 2021 **[Exhibit C]**. Based upon our financial analysis, we identified three discrete time frames for further evaluation and consideration:

- 1) September 2019 - April 2020, before the Infringement Communication,
- 2) May - December of 2020, representing the period of economic damages to KEA (“Damages Period”), and
- 3) January - June 2021, after the intervening “impaired sales” period, as evidenced by generally recurring monthly purchases by Brownells.

A computer model was prepared to estimate the KEA lost sales/revenues attributable to the four KEA products, which were then converted into lost profits by subtracting avoided costs.

Lastly, we prepared graphs of the monthly sales quantities for each of the four KEA products, comparing those expected based upon our financial analyses (*but-for*) versus actual historical results. **[Exhibit D]**

V. Basis for Opinions

KEA Products Impacted. The estimated economic damages to KEA are derived from the four KEA products, which were selected from among the possible nine different product numbers that were actively sold to Brownells during the Damages Period using the “Before-and-After” approach. Those four KEA products include:

- 1-61-01-001 MK3 STRIPPED LOWER
- 1-61-01-002 MK3 COMPLETE LOWER (MIL-SPEC)
- 1-61-01-006 AR-15 WHAT WOULD STONER DO 2020 RIFLE
- 1-61-01-007 MK3 STRIPPED LOWER FDE

Lost Sales. Estimating economic damages was accomplished by modeling sales quantities that otherwise would have been expected during the Damages Period; sensitivity analysis of sales quantities before and after were considered in determining the average monthly sales quantities expected. Since the Damages Period monthly sales quantities were based upon average monthly analysis, during some months the lost revenues are negative factors (significantly so, for each of the four products, from a low of \$31,000 to high of \$152,000). Even though the negative factors reduce the overall lost revenues, given the methodology used, they are important elements for the computer modeling.

Our individual considerations and assessment for each product were as follows:

- **1-61-01-001 MK3 STRIPPED LOWER.** We determined that there were monthly average sales of 70 units before May 2020 and monthly average sales of 1,833 units after December 2020. During the Damages Period, there were 299-unit sales expected during May 2020 (Avg. monthly of 229 from 2021, plus 70 pre-existing monthly), which was increased each month by a net 219 units through December 2020; the 219 represents average monthly of 229 from 2021, less 10 units monthly from pre-existing timeframe. Result of our modeling was lost sales of 4,543 units for \$299,702.

- **1-61-01-002 MK3 COMPLETE LOWER (MIL-SPEC).** We determined that there were minimal sales before May 2020, but monthly average sales of 517 after December 2020. During the Damages Period, there were 65-unit sales expected during May 2020 (Avg. monthly of 65 from 2021), which was increased each month by 65 units through December 2020. Result of our modeling was lost sales of 931 units for \$111,692.
- **1-61-01-006 AR-15 WHAT WOULD STONER DO 2020 RIFLE.** We determined that there were monthly average sales of 30 units before May 2020; and monthly average sales of 54 units after December 2020. During the Damages Period, there were 30-unit sales expected during May 2020, which was increased monthly by seven units through December 2020. Result of our modeling was lost sales of 50 units for \$60,976.
- **1-61-01-007 MK3 STRIPPED LOWER FDE.** We determined that there were monthly average sales of 113 units before May 2020; and monthly average sales of 917 units after December 2020. During the Damages Period, there were 115-unit sales expected during May 2020, which was increased monthly by 115 units through December 2020. Result of our modeling was lost sales of 2,502 units for \$165,057.

Avoided Costs. Reducing lost sales by avoided costs is necessary to determine lost profits of KEA. The avoided costs should at a minimum include direct materials incorporated into the finished products. As detailed in spreadsheets received from KEA, the direct materials costs of the four KEA products **[Exhibit E]** were:

- | | |
|---|---------------------------------|
| ○ MK3 STRIPPED LOWER | \$ 18.93 (28.7% of sales price) |
| ○ MK3 COMPLETE LOWER (MIL-SPEC) | \$ 45.83 (38.2% of sales price) |
| ○ AR-15 WHAT WOULD STONER DO 2020 RIFLE | \$831.39 (68.2% of sales price) |
| ○ MK3 STRIPPED LOWER FDE | \$ 18.93 (28.7% of sales price) |

Labor costs have been included in our lost profits analysis as a component of general & administrative/other costs, which follow.

An additional consideration for this case is KEA's investment into fixed cost of manufacturing process and injection molds for the products affected; however, our determination was to exclude those cost components as direct inputs into the lost profits computation. The reasoning is those investments in fixed costs are not recurring, but historical sunk costs in anticipation of future sales and profits; however, for completeness those expiring costs are reflected as depreciation expense included as a component of general & administrative/other, which follow.

General & administrative/other costs have been considered by us from the KEA Federal tax returns covering the calendar years 2018-2020. Based upon the redacted tax returns received, total revenues increased \$2,087,855 from 2018 to 2020; likewise, total deductions increased \$105,142. The incremental increase in general & administrative/other costs as a percentage of the increase in revenues was 5.0%. Thus, for each additional dollar of sales achieved by KEA, general & administrative/other costs would increase by that 5.0%, which has been incorporated into our analysis of avoided costs in computing the lost profits of KEA.

The significant expense categories included in the general & administrative/other cost analysis included:

- Salaries
- Repairs and maintenance
- Rents
- Depreciation
- Advertising
- Other expenses

Lost Profits. As previously stated, the KEA claim is for lost profits that would have resulted from the Brownells lost sales, shown below for each of the four KEA products:

- 1-61-01-001 MK3 STRIPPED LOWER (4,583 units)

Lost Sales	\$299,702
Less: Avoided Costs (33.7%)	<u>(101,000)</u>
Lost Profits	<u>\$198,702</u>
- 1-61-01-002 MK3 COMPLETE LOWER (MIL-SPEC) (931 units)

Lost Sales	\$111,692
Less: Avoided Costs (43.2%)	<u>(48,251)</u>
Lost Profits	<u>\$ 63,441</u>
- 1-61-01-006 AR-15 WHAT WOULD STONER DO 2020 RIFLE (50 units)

Lost Sales	\$ 60,976
Less: Avoided Costs (73.2%)	<u>(44,634)</u>
Lost Profits	<u>\$ 16,342</u>
- 1-61-01-007 MK3 STRIPPED LOWER FDE (2,502 units)

Lost Sales	\$165,057
Less: Avoided Costs (33.7%)	<u>(55,624)</u>
Lost Profits	<u>\$109,433</u>

In total, the KEA claim for lost profits can be seen below:

○ MK3 STRIPPED LOWER	\$198,702
○ MK3 COMPLETE LOWER (MIL-SPEC)	\$ 63,441
○ AR-15 WHAT WOULD STONER DO 2020 RIFLE	\$ 16,342
○ MK3 STRIPPED LOWER FDE	<u>\$109,433</u>
Lost Profits	<u>\$387,918</u>

Additionally, based upon data from the FBI on NICS Firearm Background Checks database, over the period from January 2019 to June 2021, that monthly data in general indicates the demand for firearms in the United States. After the monthly data scheduling, a trendline was added that depicts the line of best fit for the datapoints. Over the period represented, January 2019 to June 2021, the data indicates that the demand for firearms has been in a long-term growth mode from approximately 2,000,000 firearm background checks per months, upwards to approximately 4,000,000. **[Exhibit F]**

VI. Expert Qualifications

I am a Partner with BDO and have specialized in management advisory services for over 20 years (since approximately 1998), including client engagements involving financial analyses, forensic accounting, computation of economic damages and rebuttal of economic damages claimed by others. Such services have been provided on litigation matters in State Court (primarily Nevada, Texas and California), in Federal Court and in arbitration/mediation, as both a consultant and testifying expert witness. Moreover, I am a Certified Public Accountant, Certified Fraud Examiner and Certified Valuation Analyst.

A complete list of my experience and qualifications is included at **Exhibit G**, including publications, testimony in deposition and trial, and court ordered engagements.

The work efforts incurred for professional services to KE Arms have been billed to KE Arms at BDO's standard hourly rates that vary based upon seniority and level of experience; my professional billing rate for such services provided was \$375 per hour and is not contingent upon the outcome of the counterclaim, whether at trial or in an out-of-court settlement.



Michael L. Rosten

October 6, 2021

Exhibit A

From: Rus Anderson [mailto:randerson@gwacsdefense.com]
Sent: Tuesday, April 21, 2020 1:38 PM
To: russell@kearms.com
Cc: Jud Gudgel <jgudgel@gwacs.us>; paul.levy@brownells.com
Subject: RE: Cease and Desist

Russell,

Please see the email below. We have not received a response from you and would request you reply soon or we will have to consider other action to protect our rights.

Rus

Russell L. Anderson
Colonel USMC (Ret)
Director of Programs and Compliance
GWACS Defense, Inc.
GWACS Armory, LLC
7130 S. Lewis Ave, Ste 300
Tulsa, OK 74136
Office: 918-794-5670 Ext. 200
Fax: 918-794-5675
Cell: 918-232-0118

From: Rus Anderson
Sent: Tuesday, April 7, 2020 4:22 PM
To: russell@kearms.com
Cc: Jud Gudgel <jgudgel@gwacs.us>
Subject: Cease and Desist

Russell,

I am sending this email on behalf of Jud Gudgel and GWACS Armory, LLC. Today it has come to our attention that you (more specifically, your employer, KE Arms) are attempting to develop a GWACS CAV-15 M III in direct conflict with our intellectual property rights. Please consider this email as a demand to Cease and Desist this activity immediately.

As you are aware, GWACS purchased all the equipment, molds, designs, and related IP from Calvary Arms in 2011, and own exclusive rights to such. In 2015, we attempted to form a broader relationship with KE Arms in order to allow the manufacture of an aluminum version of the CAV15 MK II and MK III lower receiver for GWACS to market. Under this premise, we shared our latest designs with you and jointly executed a Nondisclosure Agreement (NDA) of the designs (copy attached). It appears that the MK III is the design you are currently attempting to market.

As mentioned above, by this email GWACS Armory is providing you official notice to Cease and Desist the use, manufacture and marketing of any designs, IP and other likeness to the GWACS Armory CAV 15 MKII and MKIII immediately.

We would be willing to discuss a licensing arrangement between GWACS and KE Arms, both as a manufacturer for GWACS Armory and as a manufacturer of a KE Arms Variant under license from GWACS. If this is something you and your employer would be interested in pursuing, I look forward to hearing from you soon.

We have enjoyed a long and great relationship over the years and I would like to continue that relationship, if at all possible. However, if we can't quickly come to a mutual agreement and licensing agreement, we will be forced to take legal action to protect our intellectual property.

Rus

Russell L. Anderson
Colonel USMC (Ret)
Director of Programs and Compliance
GWACS Defense, Inc.
GWACS Armory, LLC
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Exhibit B

KE Arms, LLC v. GWACS Armory, LLC
Case No. 4:20-cv-0341-CVE-CDL
Document Control Log

Document Date	Starting Reference Number	Ending Reference Number	Document Description
4/24/2020	KEA000067	KEA000068	Demand Letter, CC to Brownells
9/17/2021	-	-	Current Pricing
	-	-	MK3 Submission
	-	-	OEM (Strategic Armory), unable to carry KP15
8/27/2019 - 12/18/2019	-	-	KE Arms 2019 (Brownells Purchase Orders)
1/14/2020 - 9/21/2020	-	-	KE Arms 2020 #1 (Brownells Purchase Orders)
7/8/2020 - 12/29/2020	-	-	KE Arms 2020 #2 (Brownells Purchase Orders)
1/4/2021 - 3/25/2021	-	-	KE Arms 2021 #1 (Brownells Purchase Orders)
4/1/2021 - 9/16/2021	-	-	KE Arms 2021 #2 (Brownells Purchase Orders)
9/24/2021	-	-	Damages related to Brownells - Two relevant legal claims
8/31/2020 - 6/15/2021	-	-	2AWholesale-Total-Sales-Accrual
9/1/2020 - 6/23/2021	-	-	2AWholesale-Total-Sales-Cash
12/9/2016 - 9/22/2021	-	-	Brownells-Total-Sales
1/1/2019 - 9/29/2021	-	-	Graph-Brownells, Salesby_Mo
1/1/2019 - 9/29/2021	-	-	Graph-MonthbyMonth
8/1/2019 - 9/23/2021	-	-	KP-15-Products-Total-Sales-Accrual
8/1/2019 - 9/23/2021	-	-	KP-15-Products-Total-Sales-Cash
12/20/2013 - 9/16/2021	-	-	RSR-Total-Sales-Accrual
1/8/2014 - 9/3/2021	-	-	RSR-Total-Sales-Cash
4/28/2020 - 4/29/2021	-	-	Wraithworks-Total-Sales-Accrual
5/4/2020 - 5/6/2021	-	-	Wraithworks-Total-Sales-Cash
	-	-	KP-15-Cost (unit costs)
2018-2020	-	-	Selected and redacted portions of tax returns for KE Arms - 2018, 2019 and 2020
12/29/2020	-	-	KE Arms KP-15 Monolithic Polymer Receiver Overview
2020	-	-	Annual Firearms Manufacturing and Export Report (BATFE)
2020	-	-	Firearms Commerce in the United States; BATFE Annual Statistical Update
11/1998 - 8/2021	-	-	NCIS Firearm Checks: Month/Year

Prepared by BDO

See Accompanying Expert Witness Report

Exhibit B; B-1

ROSTEN 000013

Exhibit C

Prepared by BDO

See Accompanying Expert Witness Report

Exhibit C; C-1

Part Number
Description

1-61-01-002
MK3 COMPLETE LOWER (MIL-SPEC)

Year	Month	PO Number (\$)	Actual Qty	Qty Variance from Expected	Expected Qty	Price/Unit	Lost Revenues	BDO Comments
2019	Sept	9585734	56					
2019	Oct	9587677	50					
2019	Nov							
2019	Dec							
2020	Jan							
2020	Feb							
2020	Mar							
2020	Apr							
2020	May	10164970	50	65	65	\$119.97	7,748.06	Damages period, May-December 2020
2020	June	10260794	50	79	129	\$119.97	9,497.63	Damages period, May-December 2020
2020	July	10322952	500	(306)	194	\$119.97	(36,740.81)	Damages period, May-December 2020
2020	Aug			258	258	\$119.97	30,992.25	Damages period, May-December 2020
2020	Sept			323	323	\$119.97	38,740.31	Damages period, May-December 2020
2020	Oct			388	388	\$119.97	46,488.38	Damages period, May-December 2020
2020	Nov	10770199	844	(392)	452	\$119.97	(47,018.24)	Damages period, May-December 2020
2020	Dec			517	517	\$119.97	61,984.50	Damages period, May-December 2020
2021	Jan	10963242	250					
		10963498						
		10963499						
2021	Feb	11125043	1700					
		10963501						
2021	Mar	10963502	200					
		10963505						
2021	April	10963507	200					
		10963508						
		10963511						
2021	May	11125059	550					
		10963514						
2021	June	10963516	200					
Total			4600	931	2,325	\$	111,692.07	
				<u>Net Increase</u>				
						2021 Total Quantity	3,100	
						Quantity Average/Month	517	
						Pro rata monthly increase, over eight months (May-Dec 2020)	65	

Prepared by BDO

See Accompanying Expert Witness Report

Exhibit C; C-2

ROSTEN 000016

Part Number
Description

1-61-01-006
AR-15 WHAT WOULD STONER DO 2020 RIFLE

Year	Month	PO Number (s)	Actual Qty	Qty Variance from Expected	Expected Qty	Price/Unit	Lost Revenues	BDO Comments
2019	Sept	9585734	56					
2019	Oct	9587677	50					
2019	Nov							
2019	Dec							
2020	Jan	9851149	75					
2020	Feb							
2020	Mar	9935954	50					Average monthly quantity sold, 30 units (for the period January – April 2020)
2020	April							
2020	May			30	30	\$1,219.51	36,585.30	Damages period, May-December 2020
2020	June	10184795	70	-33	37	\$1,219.51	(40,243.83)	Damages period, May-December 2020
		10260794						
2020	July	10313237	114	-70	44	\$1,219.51	(85,365.70)	Damages period, May-December 2020
2020	Aug	10456549	73	-22	51	\$1,219.51	(26,829.22)	Damages period, May-December 2020
2020	Sept			58	58	\$1,219.51	70,731.58	Damages period, May-December 2020
2020	Oct	10657976	50	15	65	\$1,219.51	18,292.65	Damages period, May-December 2020
2020	Nov			72	72	\$1,219.51	87,804.72	Damages period, May-December 2020
2020	Dec	10830261	79	0	79	\$1,219.51	-	Damages period, May-December 2020
2021	Jan	10986311	50	-	-			
2021	Feb				-			
2021	Mar	11275645	125	-	-			
2021	April	11365114	150	-	-			
2021	May			-	-			
2021	June			-	-			
Total			942	50	436		\$ 60,975.50	
				<u>Net Increase</u>				

Part Number
Description

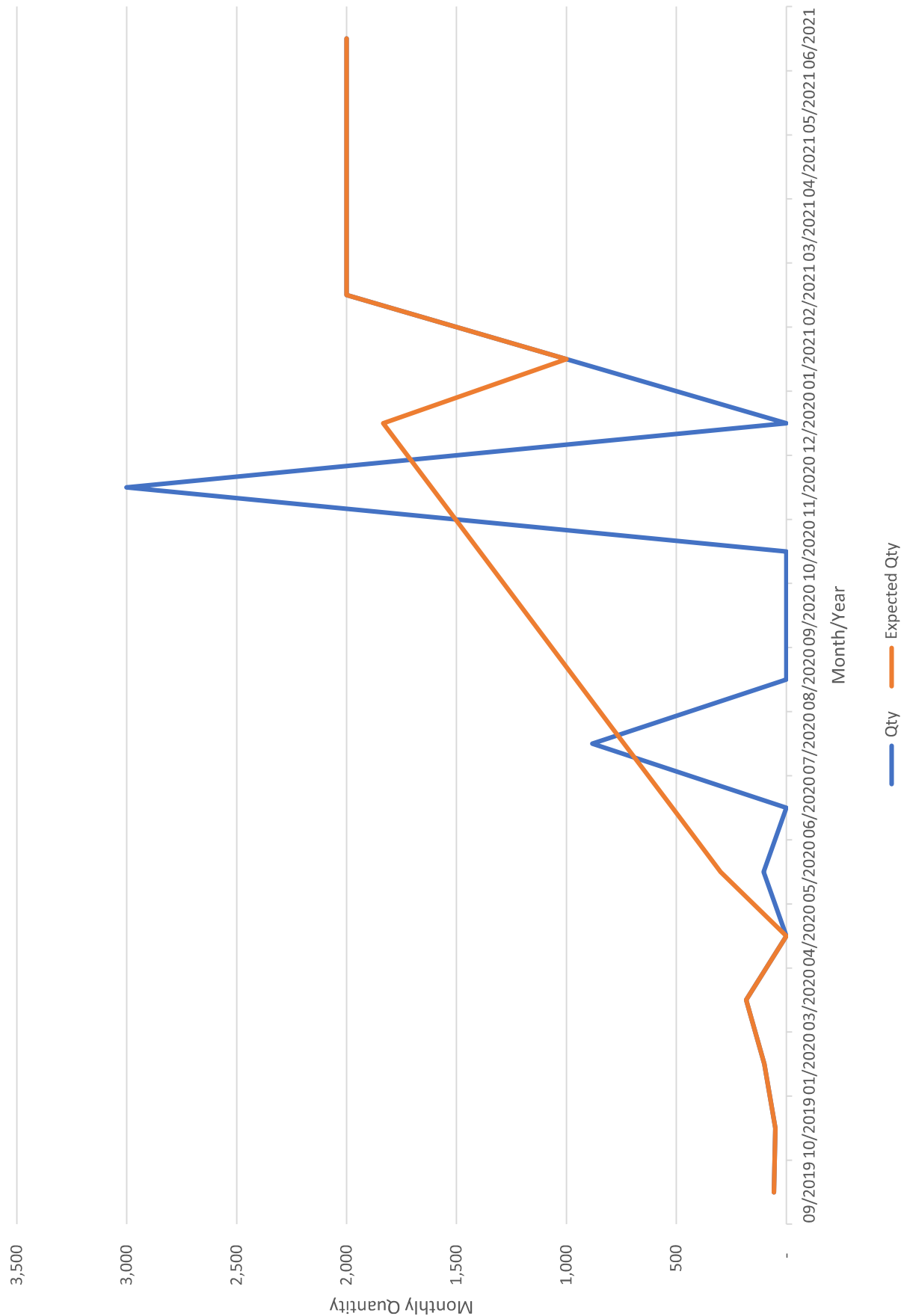
1-61-01-007

MK3 STRIPPED LOWER FDE

Year	Month	PO Number (\$)	Actual Qty	Qty Variance from Expected	Expected Qty	Price/Unit	Lost Revenues	BDO Comments
2019	Sept	9585734	56					
2019	Oct	9587677	50					
2019	Nov							
2019	Dec							
2020	Jan							
2020	Feb							
2020	Mar	9929403	227					Average monthly quantity sold, 113 units
2020	April	9935954						(for the period March - April 2020)
2020	May	10093541	106	9	115	\$65.97	593.73	Damages period, May-December 2020
2020	June	10226135	61	169	230	\$65.97	11,148.93	Damages period, May-December 2020
		10260794						
2020	July	10322952	814	-469	345	\$65.97	(30,939.93)	Damages period, May-December 2020
2020	Aug		460	460	460	\$65.97	30,346.20	Damages period, May-December 2020
2020	Sept		575	575	575	\$65.97	37,932.75	Damages period, May-December 2020
2020	Oct		690	690	690	\$65.97	45,519.30	Damages period, May-December 2020
2020	Nov	10770199	657	148	805	\$65.97	9,763.56	Damages period, May-December 2020
2020	Dec			920	920	\$65.97	60,692.40	Damages period, May-December 2020
2021	Jan	10963242	500		-			
		10963498						
2021	Feb	10963499	1,000		-			
		10963501						
2021	Mar	10963502	1,000		-			
		10963505						
2021	April	10963507	1,000		-			
		10963508						
2021	May	10963511	1,000		-			
2021	June	10963514	1,000		-			
Total			7,471	2,502	4,140		\$ 165,056.94	
				Net Increase				

Exhibit D

1-61-01-001 - MK3 STRIPPED LOWER

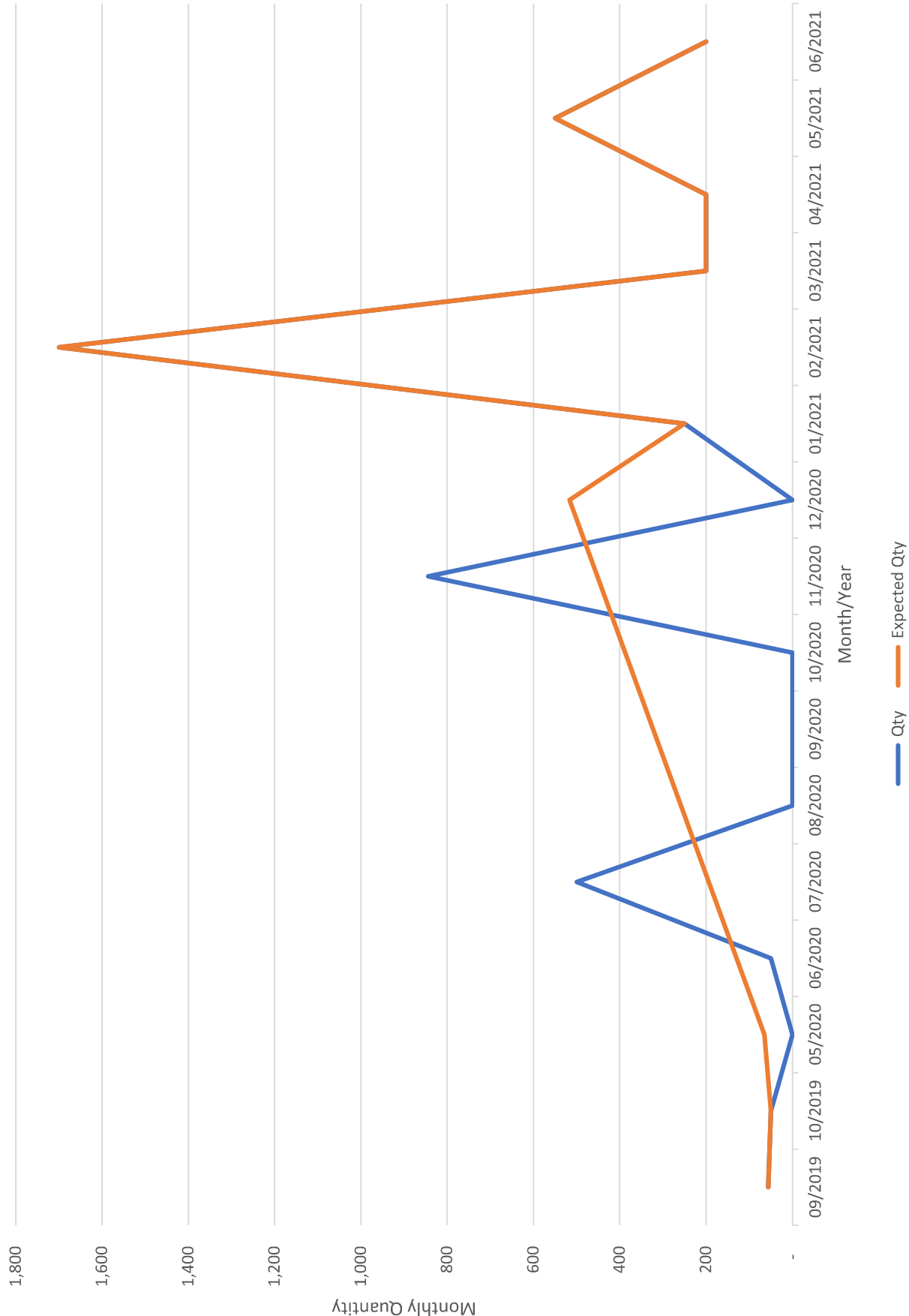


ROSTEN 000020

Part Number **1-61-01-001**
Description **MK3 STRIPPED LOWER**

Date	Date	Qty	Expected Qty
9/25/2019	09/2019	56	56
10/22/2019	10/2019	50	50
1/28/2020	01/2020	100	100
3/1/2020	03/2020	182	182
4/1/2020	04/2020	-	-
5/14/2020	05/2020	103	299
6/15/2020	06/2020	-	518
7/15/2020	07/2020	882	738
8/15/2020	08/2020	-	957
9/15/2020	09/2020	-	1,176
10/15/2020	10/2020	-	1,395
11/9/2020	11/2020	3,002	1,614
12/15/2020	12/2020	-	1,833
1/4/2021	01/2021	1,000	1,000
2/1/2021	02/2021	2,000	2,000
3/1/2021	03/2021	2,000	2,000
4/1/2021	04/2021	2,000	2,000
5/1/2021	05/2021	2,000	2,000
6/1/2021	06/2021	2,000	2,000

1-61-01-002 - MK3 COMPLETE LOWER (MIL-SPEC)

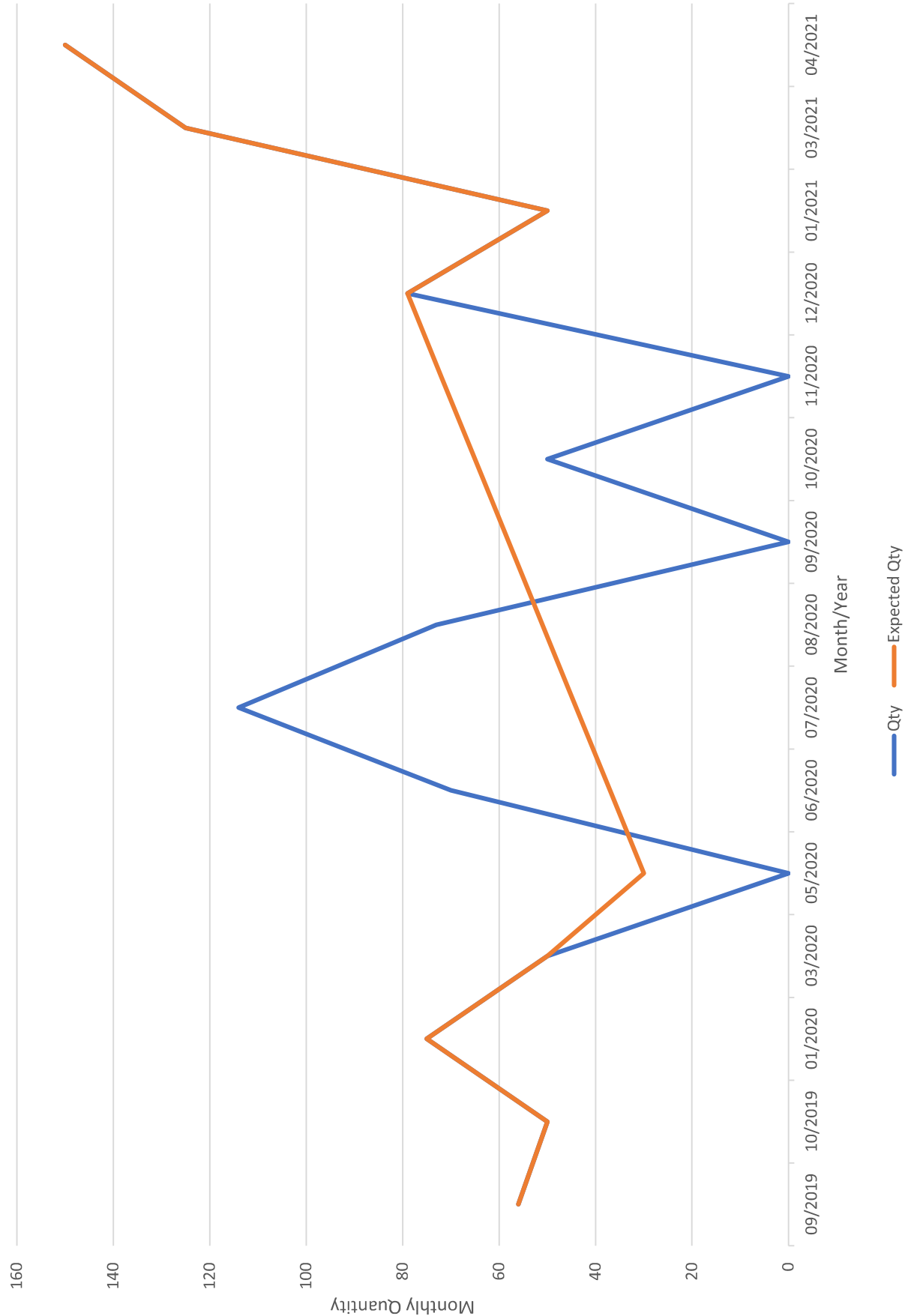


ROSTEN 000022

Part Number **1-61-01-002**
Description **MK3 COMPLETE LOWER (MIL-SPEC)**

Date	Date	Qty	Expected Qty
9/25/2019	09/2019	56	56
10/22/2019	10/2019	50	50
5/15/2020	05/2020	-	65
6/11/2020	06/2020	50	129
7/8/2020	07/2020	500	194
8/15/2020	08/2020	-	258
9/15/2020	09/2020	-	323
10/15/2020	10/2020	-	388
11/9/2020	11/2020	844	452
12/15/2020	12/2020	-	517
1/4/2021	01/2021	250	250
2/1/2021	02/2021	1,700	1,700
3/1/2021	03/2021	200	200
4/1/2021	04/2021	200	200
5/1/2021	05/2021	550	550
6/1/2021	06/2021	200	200

1-61-01-006 - AR-15 WHAT WOULD STONER DO 2020 RIFLE

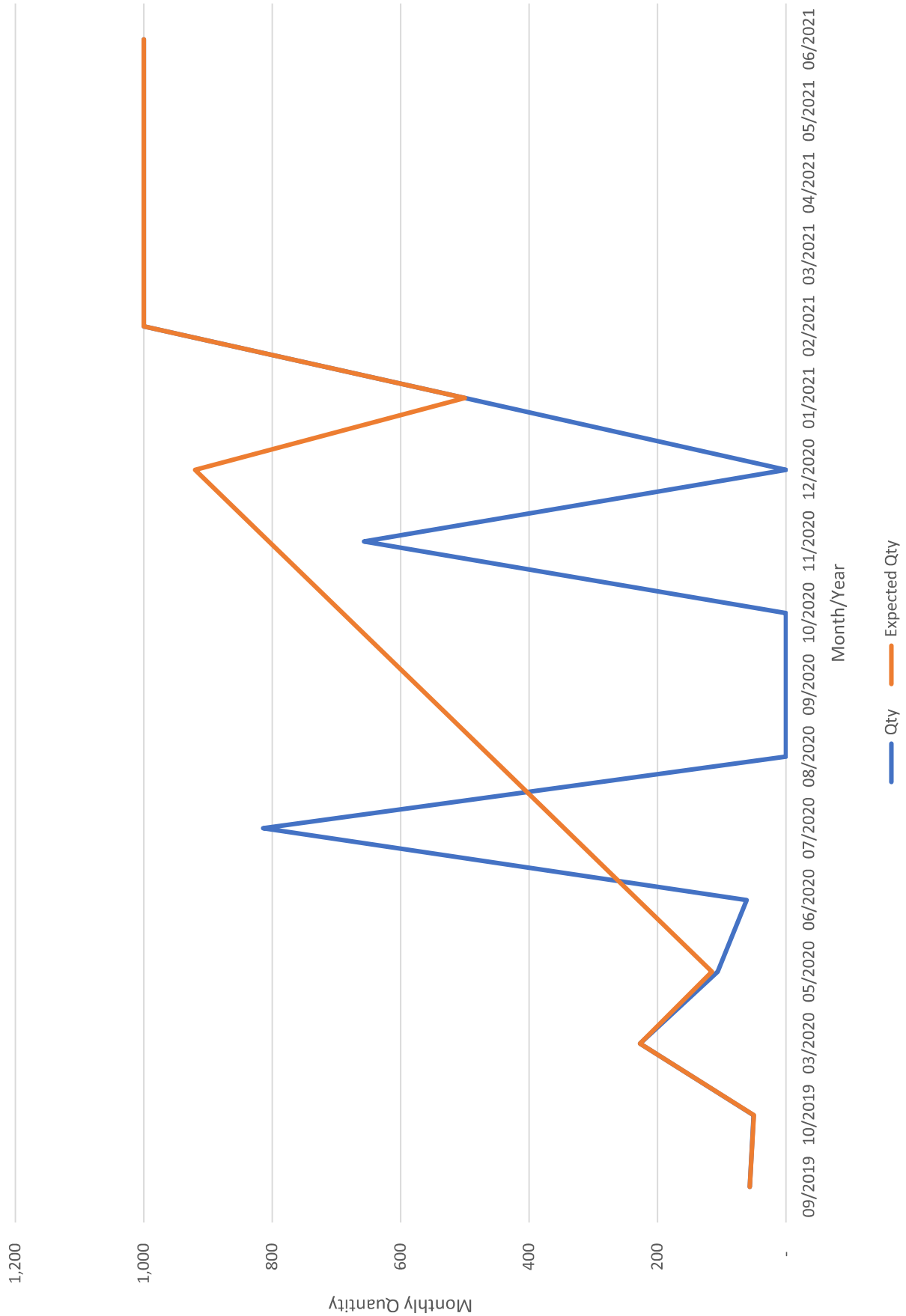


ROSTEN 000024

Part Number **1-61-01-006**
Description **AR-15 WHAT WOULD STONER DO 2020 RIFLE**

Date	Date	Qty	Expected Qty
9/25/2019	09/2019	56	56
10/22/2019	10/2019	50	50
1/28/2020	01/2020	75	75
3/18/2020	03/2020	50	50
5/15/2020	05/2020	0	30
6/19/2020	06/2020	70	37
7/8/2020	07/2020	114	44
8/26/2020	08/2020	73	51
9/15/2020	09/2020	0	58
10/1/2020	10/2020	50	65
11/15/2020	11/2020	0	72
12/1/2020	12/2020	79	79
1/28/2021	01/2021	50	50
3/11/2021	03/2021	125	125
4/8/2021	04/2021	150	150

1-61-01-007 - MK3 STRIPPED LOWER FDE



ROSTEN 000026

Part Number **1-61-01-007**
Description **MK3 STRIPPED LOWER FDE**

Date	Date	Qty	Expected Qty
9/25/2019	09/2019	56	56
10/22/2019	10/2019	50	50
3/3/2020	03/2020	227	227
5/14/2020	05/2020	106	115
6/25/2020	06/2020	61	230
7/8/2020	07/2020	814	345
8/15/2020	08/2020	-	460
9/15/2020	09/2020	-	575
10/15/2020	10/2020	-	690
11/9/2020	11/2020	657	805
12/15/2020	12/2020	-	920
1/4/2021	01/2021	500	500
2/1/2021	02/2021	1,000	1,000
3/1/2021	03/2021	1,000	1,000
4/1/2021	04/2021	1,000	1,000
5/1/2021	05/2021	1,000	1,000
6/1/2021	06/2021	1,000	1,000

Exhibit E

Unit Cost for: 1-61-01-001 KP-15 Stripped Black

KP-15 Receiver Molded/Welded/Serialized	\$12.17
1/4-20 Nut	\$0.10
1/4-20 x 1" Screw	\$0.10
10-32 Nut	\$0.10
10-32 x 1" Screw	\$0.10
Trimming/Deburring/Secondary Ops	\$5
Serial Number Plate	\$0.70
Front Pin	\$0.28
Rear Pin	\$0.28
5/64 x1" Roll Pin	\$0.10

Total Cost **\$18.93**

Unit Cost for: 1-61-01-002 KP-15 Milspec Black

KP-15 Receiver Molded/Welded/Serialized	\$12.17
1/4-20 Nut	\$0.10
1/4-20 x 1" Screw	\$0.10
10-32 Nut	\$0.10
10-32 x 1" Screw	\$0.10
Trimming/Deburring/Secondary Ops	\$5
Serial Number Plate	\$0.70
Front Pin	\$0.28
Rear Pin	\$0.28
5/64 x1" Roll Pin	\$0.10
1-Hammer Spring	\$0.19
2-Disconnect Spring	\$0.05
3-Trigger Spring	\$0.17
4-Trigger/Hammer Pin	\$0.30
5-Magazine Catch	\$1.45
6-Magazine catch spring	\$0.05
7-Magazine catch button	\$0.65
15-Buffer Retainer	\$0.40
16-Buffer Detent Spring	\$0.05
17-Bolt Catch	\$2.30
18-Bolt Catch Coil Pin 3/32 x 1/2"	\$0.06
19-Bolt Catch Spring	\$0.04
20-Bolt Catch Plunger	\$0.17
21-Selector	\$2.50
22-Selector Detent	\$0.20
23-Selector Spring	\$0.10
24-Hammer	\$5.50
25-Trigger	\$4.95
26-Disconnect	\$1.50
Carbine Buffer	\$6.00
Carbine Buffer Spring	\$0.28

Total Cost**\$45.83**

Unit Cost for: 1-61-01-006 AR-15**What Would Stoner Do 2020 Rifle**

KP-15 Receiver Molded/Welded/Serialized	\$12.17
1/4-20 Nut	\$0.10
1/4-20 x 1" Screw	\$0.10
10-32 Nut	\$0.10
10-32 x 1" Screw	\$0.10
Serial Number Plate	\$0.70
Front Pin	\$0.28
Rear Pin	\$0.28
Silent Capture Spring	\$84.00
PDQ	\$41.97
Bolt Catch Coil Pin 3/32 x 1/2"	\$0.06
Bolt Catch Spring	\$0.04
Bolt Catch Plunger	\$0.17
A2 Flash Hider	\$3.60
Crush Washer	\$0.64
Midlength Gas Tube	\$4.96
Faxon Barrel	\$71.00
Faxon Gas Block	\$16.75
Carbon Fiber Handguard	\$100.00
Ambi Mag Catch	\$15.00
Magazine catch spring	\$0.05
Magazine catch button	\$0.65
Ambi Selector	\$10.00
Selector Detent	\$0.20
Selector Spring	\$0.10
SLT-1	\$110.00
Pin - Hammer	\$0.19
Pin - Trigger	\$0.19
Trap Door Buttplate Assembly	\$4.50
PMAG 30	\$8.95
Breek Charging Handle	\$26.50
Slick Side Upper	\$50.00
Chrome Bolt Carrier Group	\$125.00
Ejection Port Cover	\$3.90
Federal Excise Tax on Sale Price \$1219.51	\$134.15
Ammunition for test fire	\$5.00

Total Cost**\$831.39**

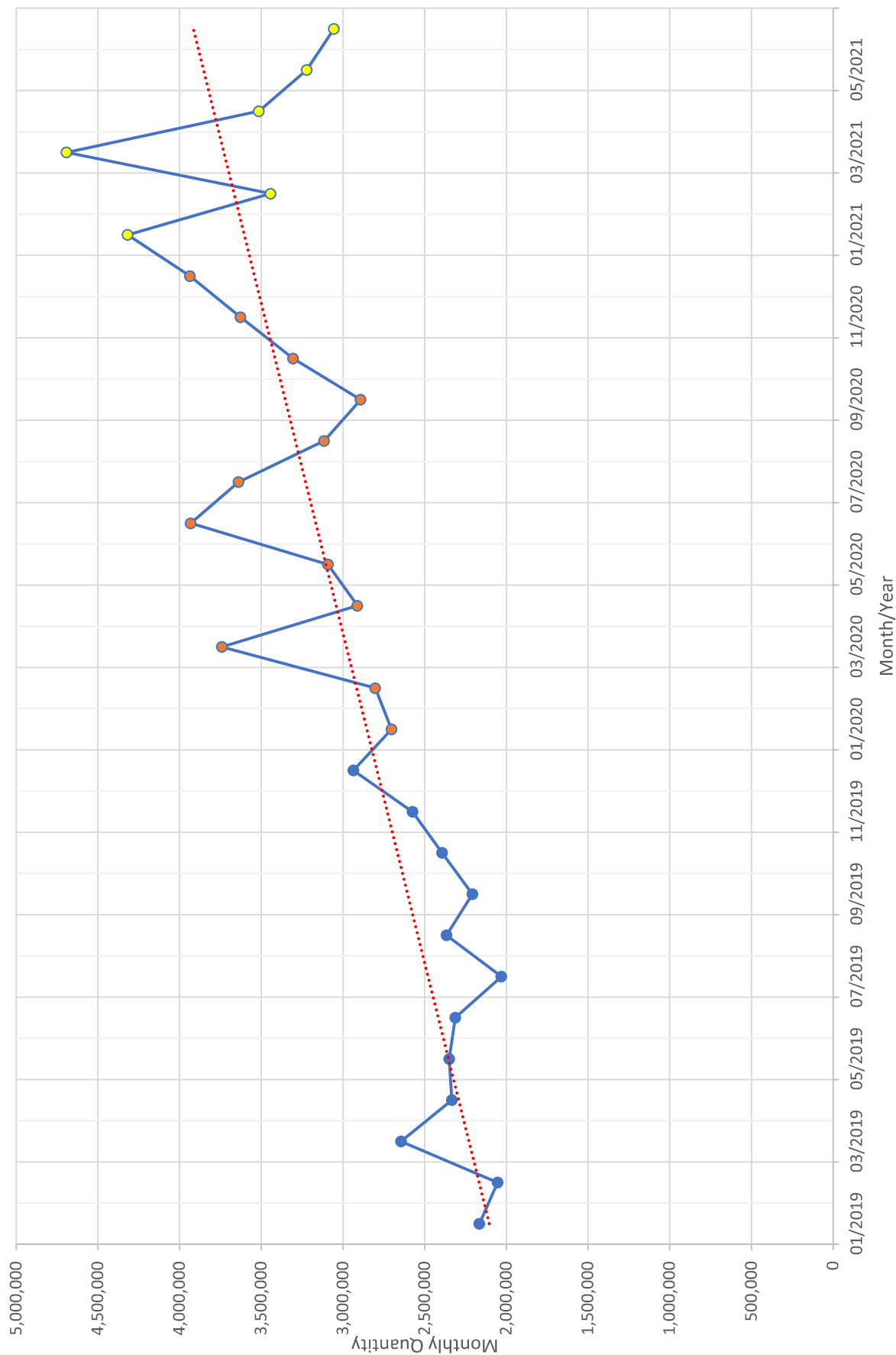
Unit Cost for: 1-61-01-007 KP-15 Stripped FDE

KP-15 Receiver Molded/Welded/Serialized	\$12.17
1/4-20 Nut	\$0.10
1/4-20 x 1" Screw	\$0.10
10-32 Nut	\$0.10
10-32 x 1" Screw	\$0.10
Trimming/Deburring/Secondary Ops	\$5
Serial Number Plate	\$0.70
Front Pin	\$0.28
Rear Pin	\$0.28
5/64 x1" Roll Pin	\$0.10

Total Cost **\$18.93**

Exhibit F

NICS Firearm Background Checks



ROSTEN 000034

GWACS Armory, LLC v. KE Arms, LLC, et al.
Summary of NICS Firearm Background Checks
January 2019 - June 2021

<u>Month</u>	<u>Number</u>
Jan-19	2,165,094
Feb-19	2,053,886
Mar-19	2,644,851
Apr-19	2,334,249
May-19	2,349,309
Jun-19	2,312,309
Jul-19	2,030,661
Aug-19	2,366,824
Sep-19	2,207,312
Oct-19	2,393,609
Nov-19	2,574,752
Dec-19	2,936,894
Jan-20	2,702,702
Feb-20	2,802,467
Mar-20	3,740,688
Apr-20	2,911,128
May-20	3,091,455
Jun-20	3,931,607
Jul-20	3,639,224
Aug-20	3,115,063
Sep-20	2,892,115
Oct-20	3,305,465
Nov-20	3,626,335
Dec-20	3,937,066
Jan-21	4,317,804
Feb-21	3,442,777
Mar-21	4,691,738
Apr-21	3,514,070
May-21	3,222,105
Jun-21	3,054,726

Source: https://www.fbi.gov/file-repository/nics_firearm_checks_-_month_year.pdf

Exhibit G



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MIKE ROSTEN, CPA, CFF, CFE, CVA, MAFF

Partner

EXPERIENCE

Mike is a partner in BDO's Forensic Investigation & Litigation Services practice. In this capacity, he performs fraud investigations focusing on sifting through financial transactions to resolve allegations or evaluate suspicions. He then interprets that transactional data and organizes that information into easy to understand reports for use by counsel, or presentation in court. No matter the industry involved, his professional experience and acumen can be summed up by the phrase "follow the money" whether during discovery or assessment of economic losses.

Mike has more than 30 years of professional services experience, including exclusive focus on providing forensic accounting investigation and expert witness services in commercial litigation, fraud investigations and divorce matters. He has been qualified as an expert in Federal and a variety of State courts. Moreover, he has served as a neutral expert in multiple disputes, such as financial forensic investigator, financial forensic accountant, business valuator and special master.

INDUSTRY FOCUS

Gaming, Hospitality & Leisure
Real Estate & Construction
Retail & Consumer Products

PROFESSIONAL AFFILIATIONS

American Institute of Certified Public Accountants
Association of Certified Fraud Examiners
National Association of Certified Valuators and Analysts
Nevada Society of Certified Public Accountants

EDUCATION

B.S., Accounting, California State University, Bakersfield



MIKE ROSTEN, CPA, CFF, CFE, CVA, MAFF

Partner

COURT-APPOINTED/NEUTRAL ENGAGEMENTS

Singleshot Entertainment, Inc. Eighth Judicial District, Clark County, Nevada, 2019 Receiver - Forensic Accounting, Stock analysis, Patents	No. A-19-791122-C
Rainbow Arroyo Commons, LLC v. M&D Group, LLC Eighth Judicial District, Clark County, Nevada, 2019 Settlement Agreement, Auditor-Accountant - Forensic Accounting Commercial-retail campus, including 900,000+ rentable s.f.	No. A-18-774998-B
Vicki Brandon-Chase v. Michelle Paglia Eighth Judicial District, Clark County, Nevada, 2018-2019 Settlement Agreement, Accountant - Forensics and business value Operating business, commingling (five years), underlying real property	No. A-17-760349-C
Truman v. Truman Eighth Judicial District-Family Division, Clark County, Nevada, 2018 Court Appointed / Jointly-Agreed Neutral, Financial Forensics	No. D-17-558585-D
Shadow Tree Income Fund A, LP v. Praxsyn Corp f/k/a Mesa Pharmacy Supreme Court, State of New York, County of Westchester, 2017 Court appointed Referee, as liaison between Plaintiffs and Defendants	Index No. 67627/2016
Independent Wellness Center, LLC v. Creig Christensen, et al Creig Christensen, DC v. Michael David Reiner, MD, et al Fifth Judicial District, Nye County, Nevada, 2017 Neutral / Joint Retention - Forensic Accounting Procedures	No. CV38345 No. CV38351
Guardianship of Garrett Dosch, an Adult Ward Eighth Judicial District, Clark County, Nevada, 2017 Special Master - Forensic Accounting as to self-dealing by Trustee	No. G-99-020357
Ansell v. Ansell Eighth Judicial District-Family Division, Clark County, Nevada, 2016 Court Appointed Neutral, Financial Forensics & Business Valuation	No. D-15-521960-D
Maurice Stone v. Terence O'Reilly v. T&M Controls, LLC Eighth Judicial District, Clark County, Nevada, 2016 Special Master - Forensic Accounting of T&M Controls, LLC	No. A-15-726525-C
Robert Green (class representative) v. Alan Waxler Group United States District Court, District of Nevada, 2015 Court-ordered Accounting - Fairness and reasonableness of settlement	No. 2:09-CV-00748

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See Accompanying Expert Witness Report

Exhibit G; G-2

ROSTEN 000038



MIKE ROSTEN, CPA, CFF, CFE, CVA, MAFF

Partner

TESTIMONY

Medicine Man Technologies, Inc., et al. v. ACC Industries. Inc., et al. No. A-19-796306-C
Eighth Judicial District, Clark County, Nevada
Trial & Deposition - Plaintiff expert witness, 2020/2021
Subject area: Licensing fees under contract-Cannabis consulting

Richland Holdings, Inc. v. Brandon L Busche, aka Ethan McNamara, et al. No. A-16-745567-B
Eighth Judicial District, Clark County, Nevada
Court - Prove-up hearing on damages, 2020
Subject area: Economic damages

Medicine Man Technologies, Inc. v. Vegas Valley Growers, LLC No. A-18-777319-C
Eighth Judicial District, Clark County, Nevada
Trial - Plaintiff expert witness, 2019
Subject area: Licensing fees under contract-Cannabis consulting

David Martin, et al v. City of Dallas No. 1-95-506
George Parker, et al v. City of Dallas No. 1-95-107
382nd Judicial District, Rockwall County, Texas
Fairness hearing for \$173 million back pay settlement, 2019

Charles E. Cook, Daniel J. McCluer, et al v. Jeri L. Johnson, et al No. A-749870
Estate of Alan Johnson; Johnson Revocable Trust
Eighth Judicial District, Clark County, Nevada
Deposition - Plaintiff expert witness, 2018
Subject areas: Economic damages

Advantage 1, LLC v. 3300 Partners, LLC, et al No. A-723027
Eighth Judicial District, Clark County, Nevada
Deposition and trial - Defense expert witness, 2017 & 2018
Subject areas: Economic damages; Rebuttal

PMCLV, LLC v. Francine Pulliam dba Prestige Properties, et al No. A-728018
Eighth Judicial District, Clark County, Nevada
Deposition - Plaintiff expert witness, 2017
Court - Prove-up hearing on damages, 2018
Arbitration - Testified, Ara Shirinian arbitrator, 2018
Subject areas: Financial forensic analysis of commercial center/Prop Mgr

Ordinance No. 16084 Claimants v. City of Dallas No. 199-00697-94
(Albert, Arredondo, Barber, Willis individual cases) No. 199-01743-93
199th Judicial District, Collin County, Texas No. 199-00624-95
Presentation of \$61 million settlement to claimants, 2018 No. 199-00200-95

Ansell v. Ansell No. D-15-521960-D
Eighth Judicial District-Family Division, Clark County, Nevada
Neutral Expert Witness testimony at trial, 2017
Court Appointed Neutral, Financial Forensics & Business Valuation

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MIKE ROSTEN, CPA, CFF, CFE, CVA, MAFF

Partner

TESTIMONY (CONTINUED)

Higco, Inc. (Three Angry Wives) v. Boca Park Parcels, LLC Eighth Judicial District, Clark County, Nevada Trial - Defense expert witness, 2016 Subject areas: Economic damages; Rebuttal	No. A-710780
Vistana HOA v. Quon Life Insurance Trust, Patricia Arnott, Trustee United States District Court, District of Nevada Deposition - Counter-defendant expert witness, 2015 Subject areas: Alternative tracing methodologies, Constructive Trust	No. 2:12-cv-01324
Brightwell v. Helfrich Eighth Judicial District-Family Division, Clark County, Nevada Trial - Plaintiff expert witness, 2015 Subject areas: Forensic accounting; Reimbursement claims	No. D-490943

PUBLICATIONS

- ▶ "Train Your Employees to be Fraud Fighters," Las Vegas Business Press, March 2015.
- ▶ "Fraud Risks, Methods Differ for Small Businesses," Las Vegas Business Press, January 2015.
- ▶ "When the 'Bad Guys' are your own Employees: Tips for Spotting Employee Fraud," Business Voice, Las Vegas Metro Chamber of Commerce, April 2014.
- ▶ Rosten, Michael, Jason Wiley. "Stress and Addiction may lead to fraud in the Legal Community," Nevada Lawyer, Nevada State Bar Association, December 2013.
- ▶ Rosten, Michael, Patrick Reilly. "Jointly Retained Experts Can Reduce Litigation Costs," The Communique, Clark County Bar Association, October 2012.
- ▶ Rosten, Michael, Emily Long. "Recessions create chances for Startups, but beware of Fraud," Las Vegas Business Press, March 2012.
- ▶ Rosten, Michael, Emily Long. "Cutting staff could cut into bottom line," Construction Connection, Associated General Contractors of Las Vegas, May 2011.
- ▶ Rosten, Michael, Emily Long. "Problem gambling can lead to workplace fraud; learn the warning signs," Guest Columnist, Las Vegas Business Press, November 2010.
- ▶ Fiscal trauma can invite fraud; here's how to protect yourself," Las Vegas Business Press, February 2010.
- ▶ "When Data in Disarray, it may be time to call a Forensic Accountant," Las Vegas Business Press, June 2009

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